

COUNCIL

Agenda # _____

MEETING OF August 26, 2003



STAFF REPORT

RESOLUTION GRANTING AN ADDITIONAL EXTENSION TO COMCAST TO OPERATE A CABLE TV SYSTEM IN BELMONT DURING FRANCHISE RENEWAL NEGOTIATIONS

August 26, 2003

Mayor and City Council of the City of Belmont

Summary

Background and Discussion

On February 12, 1991, the Belmont City Council approved a Cable TV Franchise Agreement with TCI for a period of 12 years. This agreement is coming up for renewal this February.

In preparation for the renewal, Belmont has worked with 6 other cities and the County on a group franchise renewal process. This process has included a technical audit, legal review and community needs assessment of Cable TV services and needs in Belmont and the other agencies.

We think that a group process will be beneficial to Belmont since it enables us to hire contract legal and technical assistance at a fraction of the full cost by sharing resources. The process has been moving along but it has taken longer than expected due to the earlier need to review and ultimately come to a negotiated settlement on the recent AT&T/Comcast merger and transfer of operations.

On February 11, 2003, the City Council adopted a resolution granting a 6 month extension to Comcast to operate the cable TV system in the City of Belmont during franchise renewal negotiations.

Additional Cable TV Franchise Extension

Each of the 8 agencies has prepared a needs assessment which addresses unique local needs and interests with respect to PEG access programming, institutional services and related matters. Rather than attempt to incorporate these unique issues into the Model Franchise (thereby creating eight (8) different documents) Brian Grogan focused on creating a Model Franchise with provisions common to all 8 agencies. This process will permit Comcast and SAMCAT to efficiently address common

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franchise issues and thereafter address agency specific issues. Therefore, on behalf of the 8 agencies, Mr. Grogan submitted to Comcast a draft Model Franchise dated July 3, 2003 and requested that Comcast provide a written response on or before July 31, 2003. It is anticipated that negotiations with Comcast regarding a renewed Franchise will commence shortly and hopefully will be completed by year end.

A proposed City Council resolution is attached which would grant another franchise extension allowing ample time for franchise negotiations. The attached resolution was developed by Mr. Grogan and has been reviewed and approved as to form by Greg Rubens, the SAMCAT Legal Counsel.

Fiscal Impact

No Fiscal impact.

Recommendation

City Council approval of the additional extension to Comcast until December 31, 2003.

Alternatives

1. Refer matter back to staff for more information.

Attachments

1. Resolution

Respectfully submitted,

Jean Savaree
City Attorney

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
BELMONT GRANTING COMCAST OF CALIFORNIA IX, INC. A
FRANCHISE EXTENSION TO DECEMBER 31, 2003

WHEREAS, on or about February 12, 1991, the City of Belmont, California ("City") granted a Cable Television Franchise ("Franchise") to TCI Cablevision of California, Inc., Thereafter providing services as AT&T Broadband ("AT&T").

WHEREAS, pursuant to Section 47 U.S.C. §546(a) AT&T provided notification to the City of AT&T intent to seek renewal of the Franchise under 47 U.S.C. §546(a-g).

WHEREAS, pursuant to Section 47 U.S.C. § (a) the City and AT&T properly commenced franchise renewal proceedings.

WHEREAS, the City adopted Resolution No. 9263 on June 25, 2002 approving the change of control of AT&T to Comcast Corporation.

WHEREAS, the Franchise is currently held by Comcast of California IX, Inc. ("Comcast").

WHEREAS, the City adopted Resolution No. 9359 on February 11, 2003 extending the term of the Franchise until August 30, 2003.

WHEREAS, Comcast executed said Resolution No. 9359 and agreed to continue complying with the Franchise, as amended by the Resolution.

WHEREAS, the City and Comcast pursuant to 47 U.S.C. §546(h), are conducting franchise renewal negotiations informally in an attempt to reach a mutually acceptable franchise agreement.

WHEREAS, the City and Comcast are interested in continuing informal discussions and negotiations regarding franchise renewal and desire to further extend the current franchise term from August 31, 2003 to December 31, 2003.

WHEREAS, both the City and Comcast desire to expressly reserve all of their respective rights under state and federal law.

WHEREAS, the City and Comcast can re-enter the formal renewal process pursuant to 47 U.S.C. §546(a-g) at any time upon written notice to the other party.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Belmont, California hereby resolve as follows:

1. Section 2.3 of the Franchise, Duration is hereby amended by extending the term of the such Franchise from August 31, 2003 through and including December 31, 2003.
2. Except as specifically modified hereby, the Franchise shall remain in full force and effect.
3. This Resolution shall become effective upon the occurrence of both of the following conditions: (1) The Resolution being passed and adopted by the City Council of the City of Belmont; and (2) Comcast's acceptance of this Resolution and the Franchise for the term specified in paragraph (1) above, provided Comcast accepts and agrees to each and every term of this Resolution and the Franchise within fourteen (14) days from the date this Resolution is passed and adopted.

Adopted by the City Council of Belmont, California, this ____ day of August, 2003.

CITY OF BELMONT, CALIFORNIA

By: _____

Its: _____

ATTEST:

August 26, 2003

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City Clerk

CERTIFICATION

I, _____, City _____ of the City of Belmont, California, the
custodian of its records, do hereby certify the above is a true and exact copy of a Resolution
passed, adopted and approved by the City Council of said City on August _____, 2003.

DATED: August ____, 2003

BY: _____
ITS: _____

ACCEPTANCE

Comcast of California IX, Inc., ("Comcast"), hereby acknowledges the City of Belmont,
California Resolution No. ____ ("Resolution"), attached hereto and referenced in the
Resolution and hereby accepts each and every term, provisions and recital of the Resolution and
agrees to be bound by the terms and provisions of the Franchise in accordance with the
Resolution.

DATED: _____, 2003

COMCAST OF CALIFORNIA IX, INC.

By: _____
Its: _____

SWORN TO BEFORE ME this
____ day of _____, 2003

NOTARY PUBLIC